

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WISCONSIN

GREGORY LUCE; AND

NICHOLAS NEWMAN

Plaintiffs,

v.

Case No. 14-cv-46

TOWN OF CAMPBELL, WISCONSIN;

TIM KELEMEN,

**Individually and in his official capacity as
Chief of Police for Town of Campbell, Wisconsin; and**

NATHAN CASPER,

**Individually and in his official capacity as
police officer for the Town of Campbell Police
Department**

Defendants.

AFFIDAVIT OF NICHOLAS NEWMAN

STATE OF WISCONSIN
COUNTY OF LA CROSSE

I, Nicholas Newman, hereby swear and depose as follows:

1. I am the plaintiff in the above-captioned matter and make this declaration upon my personal knowledge of the facts. I am competent to testify to the facts stated herein.

2. I am a citizen of the United States and a resident of La Crosse County, Wisconsin.
3. On August 6, 2013, I helped with organizing the first rally of "Overpasses for America." Although I was unable to attend, I helped with sign design and organizing.
4. I received notice that the Town of Campbell was going to pass an ordinance banning our activity. On October 8, 2013, I attended a town hall meeting for the town of Campbell, where the town board, in spite of our pleas, passed the ordinance forbidding protests on the bridge.
5. Around 4:00p.m. on October 22, 2013, after the ordinance was in effect, I went to the town hall and obtained a paper copy of the ordinance, which had been labeled as 9.12 even though it had been voted in as 9.11. At that time, I pointed this out to Chad Hawkins, the town clerk. I asked whether the law was in effect, and Chad said it was. I asked who was responsible for the enforcement, and was told the officer on patrol would be responsible. The officer was not available and was at Gunderson Lutheran Hospital dealing with an assault and battery case. I asked if the officer could meet me at the footbridge when he was available and was told it would be at least an hour. I had in my vehicle a flag, with an anti-abortion slogan that contained a quote from Dr. Suess, "A person's a person, no matter how small." It was my intent to display the flag on the overpass. I measured 100 feet from the base of the bridge and brought my flag and recording equipment to just beyond the 100 foot limit. I remained at this position not taking my homemade flag beyond that point. At roughly 5PM, on October 22, 2013, I called the non-emergency line, asking

whether the officer would be coming soon. My first cell phone call dropped and I recalled the line. I asked the operator whether the ordinance would be enforced. The operator contacted Officer Breidel and told me I would have to call back on Sunday and talk directly to the chief. I informed the operator I was ready to protest, and was told "they are not going to enforce anything...that's what the officer said." The operator then said Officer Breidel would call the chief and call me back, shortly.

6. About 6:15-6:30 PM, on October 22, 2013, I left after not receiving a reply, waiting for more than an hour. I called back later that evening, after getting home and was told only that I would have to contact the chief who would be available at 6 A.M. on Sunday, October 27, 2013.
7. On October 27, 2013, about 6:45 AM, I called the non-emergency line, and asked the chief whether the ordinance would be enforced. I informed the chief I was ready to demonstrate and had multiple methods of doing so, and asked whether he could send someone out to see whether I would be in violation.
8. I had in my possession an American Flag that was furled around its flag pole, so that it was not visible. When the chief came at about 7:00 AM, October 27, 2013, I confirmed that the ordinance was in effect both on the overpass and 100 ft from the overpass. I also asked if anyone else had been cited and the chief replied no. The chief offered to give me a warning if I would move along. I chose to display the flag, and was cited. The citation was for violation of section 9.11, although that number is actually a parking ordinance, and the actual ordinance is 9.12.
9. I still strongly desire to use signs and banners on the public pedestrian overpass in the

Town of Campbell, but I am deterred from doing so by the new Traffic Safety Sign Control Ordinance prohibiting signs and/or flags on or within 100 feet of a pedestrian overpass.

10. The imminent threat of citation and/or arrest chills and deters me from engaging in my desired expression in the Town of Campbell.


NICHOLAS NEWMAN

STATE OF WISCONSIN
COUNTY OF LA CROSSE

On this 13th day of January, 2014, before me, a Notary Public of the State and County aforesaid, personally appeared Nicholas Newman, to me known (or proved to me on the basis of satisfactory evidence), and who, upon oath, acknowledged that he executed the foregoing instrument for the purpose therein contained.


Notary Public

My Commission Expires:

Never



CERTIFICATE OF SERVICE

I hereby certify that on February 3, 2014, a copy of the foregoing was filed electronically. Notice of this filing will be sent to all parties for whom counsel has entered an appearance by operation of the Court's electronic filing system. Parties may access this filing through the Court's system. I certify that a copy of the foregoing has been served by ordinary U.S. Mail upon all parties for whom counsel has not yet entered an appearance electronically:

Town of Campbell
2219 Bainbridge Street
La Crosse, Wisconsin 54603

Tim Keleman
Chief of Police, Town of Campbell Police Department
2219 Bainbridge Street
La Crosse, Wisconsin 54603

Nathan Casper
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2219 Bainbridge Street
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WISLawyer LLC

s/ Bernardo Cueto
Bernardo Cueto